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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

17 WILSON & COUSINS DIVISION OF) Case No. CV-08-0098-PJH
18 PALAMAR INDUSTRIES, INC.,)
19 Plaintiff,) **STIPULATION AND [PROPOSED]**
20 V.) **ORDER RE PRELIMINARY**
21 T. CHRISTY ENTERPRISES, INC.,) **INJUNCTION**
Defendant.)

24 On January 7, 2008, Plaintiff Wilson & Cousins Division of Palamar Industries, Inc.
25 (“W&C”) commenced this action alleging trademark infringement and other claims against
26 defendant. W&C contemporaneously filed therewith an application for a temporary
27 restraining order (“TRO”) and order to show cause why a preliminary injunction should not
28 issue. On January 7, 2008, the Court entered an order setting a briefing schedule and a
hearing on the TRO for January 23, 2008 at 9:00 a.m. On January 14, 2008, pursuant to

1 the parties' stipulation, the Court entered its Order Re Plaintiff's Application For TRO and
 2 Order To Show Cause Re Preliminary Injunction which, among other things, temporarily
 3 restrained Defendant T. Christy Enterprises, Inc. from certain conduct as set forth therein
 4 and which set a hearing for March 12, 2008 at 9:00 a.m. on an order to show cause why a
 5 preliminary injunction should not issue against Christy. The parties have conferred and
 6 agreed to enter this stipulation and proposed order.

7 W&C and Defendant T. Christy Enterprises, Inc. hereby stipulate and agree that T.
 8 Christy Enterprises, Inc., its officers, agents, servants, employees, and attorneys, and all
 9 persons in active concert and privity with them, who receive actual notice of this order ("T.
 10 Christy"), are hereby preliminarily enjoined, pending a trial on the merits of this action, as
 11 follows:

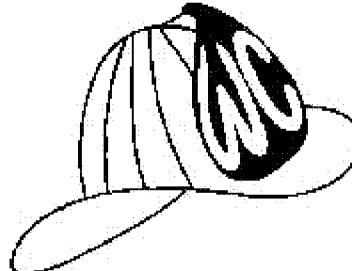
12 1. T. Christy shall not sell or distribute any check valve or hose nozzle products
 13 that feature the UL or ULC Listing Mark Control Number 27GH, any other UL or ULC
 14 Listing Mark Control Number assigned by UL or ULC to W&C, the W&C model numbers
 15 IE144T, IE144G and HNL-206T, or any check valve trade dress that is confusingly similar
 16 to W&C's check valve trade dress¹, unless those products are manufactured or authorized
 17 by W&C; and

18 2. T. Christy shall not display or depict any W&C product, the W&C model
 19 numbers IE144T, IE144G and HNL-206T, the W&C trademark known as the W&C Helmet
 20 Mark, a copy of which is reproduced below, the W&C check valve trade dress, or any
 21 confusingly similar trademark or trade dress, in its catalog, on its website, or in any
 22

23

24 ¹ The W&C check valve trade dress is defined for purposes of this order as the
 25 combination of the following elements: "UL" and "ULC" marks, placed side by side
 26 toward the top of the valve; followed underneath by the upper-case characters "LISTED",
 27 the product control number "27GH," and the term "CHECK VALVE"; towards the bottom
 28 of the valve, a Factory Mutual approval mark, namely, a diamond symbol encasing the
 letters "FM", and an uppercase letter "S" placed directly to its right; rotating the valve 180
 degrees, the display of a directional water flow arrow with the number "4" placed
 immediately to the right of the arrow; and directly underneath those symbols, the characters
 "300 LB," the characters "IE144T" or "IE144G"; and the year of manufacture (e.g.,
 "06").

1 advertising or promotional materials in order to sell or distribute products not manufactured
2 or authorized by W&C, except in lawful comparative advertising.



9 To provide the parties with an opportunity to reach a final settlement of this matter,
10 W&C and T. Christy further stipulate, subject to the approval of the Court, that:

11 3. The March 12, 2008 hearing on an order to show cause why a preliminary
12 injunction should not issue is vacated.

13 4. This stipulation shall be without prejudice to the parties' respective positions
14 on the merits of this action. Further, this stipulation shall not be construed in this or in any
15 other judicial, administrative, or arbitral proceeding as an admission or
16 acknowledgement by T. Christy that W&C has trade dress rights in the combination of
17 elements listed in footnote 1 above or any individual element listed in footnote 1 above.

18 5. The parties shall continue their settlement discussions in an effort to reach a
19 final settlement of this action. In the event that the parties do not reach a final settlement in
20 this matter by March 1, 2008, the parties hereby stipulate that they will promptly thereafter
21 participate in a non-binding, court-supervised settlement conference or mediation. The
22 participants in the settlement conference or mediation shall include a representative from
23 each party with full authority to settle this case.

24 6. The parties shall not serve any discovery requests, or seek leave to serve any
25 discovery requests, until the parties complete the first session of the settlement conference
26 or mediation, after which either party may commence discovery, subject to any restrictions
27 imposed by the Federal Rules of Civil Procedure or the Local Rules of this Court.

1 7. The Temporary Restraining Order entered on January 14, 2008 is superseded
2 in its entirety by this stipulation and order.

3
4 Dated: February 12, 2008

Respectfully submitted,

6 By /s/ Christopher T. Micheletti

8 DANIEL S. MASON (No. 54046)
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MASON & GETTE LLP

11 Attorneys for Plaintiff Wilson & Cousins
12 Division of Palamar Industries, Inc.

13
14
15 Dated: February 12, 2008

By /s/ Paul A. Stewart

16 John B. Sganga, Jr.
17 Paul A. Stewart
18 KNOBBE, MARTENS, OLSON & BEAR, LLP

19 Attorneys for Defendant T. Christy Enterprises, Inc.

20 PURSUANT TO STIPULATION, IT IS SO ORDERED.

21
22 Dated: _____

23
24
25 HON. PHYLLIS J. HAMILTON

26 UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

WILSON & COUSINS DIVISION OF PALAMAR INDUSTRIES INC.

V.

T. CHRISTY ENTERPRISES, INC.
Case No. C-08-0098 PJH

I, Rita Mehler, certify and declare under penalty of perjury that I: am a citizen of the United States; am over the age of 18 years; am employed by Zelle, Hofmann, Voelbel, Mason & Gette LLP, 44 Montgomery Street, Suite 3400, San Francisco, CA 94104, whose members are members of the State Bar of California and at least one of whose members is a member of the Bar of each Federal District Court within California; am not a party to or interested in the cause entitled upon the document to which this Certificate of Service accompanies; and that on February 12, 2008, I served a true and correct copy of the document(s) listed below:

STIPULATION AND [PROPOSED] ORDER RE PRELIMINARY INJUNCTION

By USDC Live System-Document Filing System: on all interested parties registered for e-filing.

Dated: February 12, 2008

Signed */s/Rita Mehler*